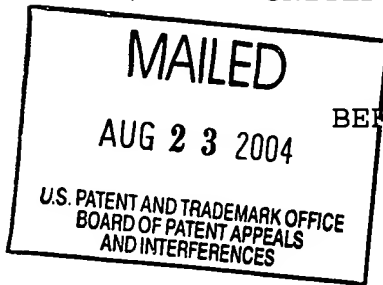


UNITED STATES PATENT AND TRADEMARK OFFICE



\_\_\_\_\_  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

Ex parte DANIEL FANEUF  
\_\_\_\_\_

Application No. 09/723,868  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was electronically received at the Board of Patent Appeals and Interferences on July 23, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

On January 2, 2004, appellant filed an amendment. On April 1, 2004, appellant filed an Appeal Brief. According to appellant on page 5 of the Brief, "Amendment F under Rule 116 was entered in this case, but was deemed not to place the Application in order for allowance." There is no communication in the record from the examiner notifying appellant as to whether or not this particular amendment has been entered. Since the claims in the Appendix to the Brief reflect entry of such amendment, the examiner is required to take corrective action with respect to

Application No. 09/723,868

the claims in the Appendix to the Brief by either properly entering the amendment, including written notification to the appellant that the amendment was entered, or by having appellant submit a corrected Appendix to the Brief, or for the examiner to reproduce a correct copy of claim 2 on appeal.

In addition, on page 3, section (9) of the Examiner's Answer mailed on May 12, 2004, the examiner relies upon Japanese Patent No. JP-0369846 to Yaman as prior art of record. However, the examiner has not provided a full text English translation of said Japanese patent.

Accordingly, it is

ORDERED that the application is returned to the examiner to take corrective action with respect to appellant's amendment filed on January 2 2004, to notify appellant in writing of such action taken, to provide a full text English translation of Japanese Patent No. JP-0369846, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

DALE M. SHAW

Program and Resource Administrator  
(703) 308-9797

cc: Hayes, Soloway P.C.  
130 W. Cushing St.  
Tucson, AZ 85701

DMS/clm/pb  
RA04-0730